

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 2485 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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ARVINDBHAI MAGANLAL VALAND

Versus

STATE OF GUJARAT

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Appearance:

MR AM PAREKH for Petitioner

MR SP DAVE LEARNED ADDL PUBLIC PROSECUTOR for Respondent No. 1

MR HM PARIKH for Respondent No. 2

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CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 17/06/1999

ORAL JUDGEMENT

#. Heard learned Advocate Mr.A.M.Parekh.

#. Rule. Mr. S.M.Parikh appears for respondent No.2  
and Mr.S.P.Dave, learned APP for respondent No.1 and they  
waive service of rule. In the peculiar facts and  
circumstances of the case, this matter is taken for final

hearing today.

#. Admittedly in respect of this very complaint, which came to be dismissed, the revision being No : 214 of 1996 was preferred before the City Civil and Sessions Court, Ahmedabad which came to be allowed by the learned Additional City Sessions Judge. The aforesaid order came to be challenged before this Court by preferring Special Criminal Application No : 497 of 1997 and this Court passed the following order therein on 7-5-1997.

"1. So far as the contention of the petitioner that he was not heard by the revision Court has not substance, as the revision was directed against the order of the learned Magistrate passed under Section 203 of the Cr.P.C.

2. So far as the contention on the merits of the case is concerned, the petitioner may approach to the learned Magistrate for recalling the order of issuing the process. If such an application is filed, the same shall be disposed of in accordance with the law.

3. With the aforesaid observations, this Special Criminal Application is rejected. Notice discharged. I.R. vacated."

#. Now the petitioner approaches this Court again for quashing the complaint in question with an alternative prayer of directing the learned Metropolitan Magistrate to decide the application of the petitioner for dropping the proceedings.

#. In light of the facts of the case and earlier order of this Court, the question of quashing the complaint at this stage does not survive. However, since almost two years have lapsed after the application preferred by the applicant before the learned Metropolitan Magistrate, Court No.13, Ahmedabad, to meet the ends of the justice it would be appropriate if the learned Metropolitan Magistrate is directed to expeditiously hear and decide the application preferred by the petitioner for dropping the proceedings. Therefore, in light of the above facts and circumstances, it is directed that the learned Metropolitan Magistrate shall decide the application on merits so after giving audience to both the sides preferably within 8 week from the receipt of the writ. Rule is made absolute to that extent. It may be made

clear that this Court expressed no opinion on merits.  
The matter stands disposed of accordingly. No costs.

Date : 17-6-1999 [ A.L.Dave,J. ]

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